

THE HONORABLE S. KATE VAUGHAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GIL ELIE,

Plaintiff,

v.

NORTH STAR FISHING COMPANY, LLC., aka/and
CAPE HORN VESSEL, LLC., a Washington Limited
Liability Company; and GLACIER FISH COMPANY,
LLC., a Washington Limited Liability Company,

Defendants.

No. 2:21-cv-01474-SKV

**ANSWER TO COMPLAINT AND
AFFIRMATIVE DEFENSES**

Defendants North Star Fishing Company, LLC, Cape Horn Vessel, LLC and Glacier
Fish Company, LLC (collectively hereinafter “Defendants”) answer Plaintiff Gil Elie’s
Complaint and Jury Demand (the “Complaint”) as follows:

NATURE OF THE CASE

1. The allegations in Paragraph 1 of the Complaint contain statements regarding
the types of claims Plaintiff asserts in the Complaint and to which no affirmative response
appears required from Defendants as the content of the Complaint speaks for itself.

{29792-00759915;1}

ANSWER TO COMPLAINT AND AFFIRMATIVE DEFENSES –
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JURISDICTION AND VENUE

2. The allegations in Paragraph 2 of the Complaint present issues of law for the Court's determination and to which no affirmative responses is required from Defendants.

3. The allegations in Paragraph 3 of the Complaint present issues of law for the Court's determination and to which no affirmative response is required from Defendants.

4. The allegations in Paragraph 4 of the Complaint present issues of law for the Court's determination and to which no affirmative response is required from Defendants.

5. The allegations in Paragraph 5 of the Complaint present issues of law for the Court's determination and to which no affirmative response is required from Defendants.

PARTIES

6. In response to Paragraph 6 of the Complaint, admit that Plaintiff Gil Elie is a former crewmember on the F/T CAPE HORN and that North Star Fishing Company, LLC employed Plaintiff pursuant to a 2021 Crew Member Agreement. All allegations not specifically admitted are denied.

7. In response to Paragraph 7 of the Complaint, admit that North Star Fishing Company, LLC employed Plaintiff pursuant to a 2021 Crew Member Agreement and admit that Plaintiff was employed as a Processor. All allegations not specifically admitted are denied.

8. In response to Paragraph 8 of the Complaint, admit that Plaintiff worked on the F/T CAPE HORN under a 2021 Crew Member Agreement. All allegations not specifically admitted are denied.

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1 9. In response to Paragraph 9 of the Complaint, admit that Plaintiff worked on
2 the F/T CAPE HORN under a 2021 Crew Member Agreement. To the extent Paragraph 9
3 asserts claims relative to status under Section 1981, it states legal issues for the Court's
4 determination and to which no response is required by Defendants. All allegations not
5 specifically admitted are denied.

6 10. In response to Paragraph 10 of the Complaint, admit that North Star Fishing
7 Company, LLC employed Plaintiff pursuant to a 2021 Crew Member Agreement. To the
8 extent Paragraph 9 asserts claims relative to status under the WLAD , it states legal issues for
9 the Court's determination and to which no response is required by Defendants All allegations
10 not specifically admitted are denied.

11 11. In response to Paragraph 11 of the Complaint, admit that Plaintiff was
12 compensated for his work according to the terms of the 2021 Crew Member Agreement. All
13 allegations not specifically admitted are denied.

14 12. In response to Paragraph 12 of the Complaint, admit that Cape Horn Vessel,
15 LLC was the owner of the F/T CAPE HORN in May and June 2021 and admit that North
16 Star Fishing, LLC operated and managed the F/T CAPE HORN in May and June 2021.
17 Denied in all respects not specifically admitted.

18 13. In response to Paragraph 13 of the Complaint, admit.

19 14. The allegations in Paragraph 14 of the Complaint present issues of law for the
20 Court's determination and to which no affirmative response is required from Defendants. To
21 the extent a response is required, denied.

22 15. In response to Paragraph 15 of the Complaint, admit.

23 16. In response to Paragraph 16 of the Complaint, admit.

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1 17. In response to Paragraph 17 of the Complaint, admit.

2 18. Defendants are without sufficient knowledge or information so as to form a
3 belief as to the truth of the allegations contained in Paragraph 18, and therefore deny same.

4 19. In response to Paragraph 19 of the Complaint, admit .

5 20. In response to Paragraph 20 of the Complaint admit that Alfredo Amezuca
6 was a foreman on the F/T/ CAPE HORN. To the extent Paragraph 20 uses the term
7 “supervisor” as a legal status relative to the claims asserted by Plaintiff it presents questions
8 of law for the Court’s determination and to which no affirmative responses is required from
9 Defendants. Denied in all respects not specifically admitted.

10 21. Paragraph 21 of the Complaint presents questions of law for the Court’s
11 determination and to which no response appears required from Defendants. To the extent a
12 response is required, denied.

13 22. In response to Paragraph 22 of the Complaint, admit.

14 23. In response to Paragraph 23 of the Complaint, admit that Nick Clubb was a
15 deck boss on the F/T CAPE HORN. To the extent Paragraph 23 uses the term “supervisory”
16 as a legal status relative to the claims asserted by Plaintiff it presents questions of law for the
17 Court’s determination and to which no affirmative response is required from Defendants.
18 Denied in all respects not specifically admitted.

19 24. In response to Paragraph 24 of the Complaint, admit that Amy Hollingsworth
20 was a Vessel Recruiter for the CAPE HORN, and that Rosy Barocio-Garibay was a vessel
21 recruiter for other vessels. Denied in all respects not specifically admitted.

22 //

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FACTUAL ALLEGATIONS

25. In responses to Paragraph 25 of the Complaint, admit.

26. In response to Paragraph 26 of the Complaint, admit that Plaintiff signed a 2021 Crew Member Agreement on May 22, 2021. Denied in all respects not specifically admitted.

27. In response to Paragraph 27 of the Complaint, admit that Plaintiff signed a 2021 Crew Member Agreement for Trip 12-2021 on the F/T CAPE HORN on May 22, 2021. Denied in all respects not specifically admitted

28. In response to Paragraph 28, admit that Plaintiff boarded the F/T CAPE HORN on May 24, 2021 in Dutch Harbor, Alaska, and that the F/T CAPE HORN departed Dutch Harbor, Alaska on May 25, 2021. Denied in all respects not specifically admitted.

29. In response to Paragraph 28 of the Complaint, admit that crewmembers on the F/T CAPE HORN are from diverse backgrounds and ethnicities. Admit that Plaintiff identifies as black. Denied in all respects not specifically admitted.

30. In responses to Paragraph 30 of the Complaint, admit that Plaintiff's job responsibilities were consistent with those of other processors on the F/T CAPE HORN. Admit that processor job duties may include, but are not limited to work on both the deck and the factory. Denied in all respects not specifically admitted.

31. In response to Paragraph 31 of the Complaint, denied.

32. Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in Paragraph 32, and therefore deny same.

33. In response to Paragraph 33 of the Complaint, denied

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1 34. Defendants are without sufficient knowledge or information regarding
2 whether Plaintiff was working at the cutting station on June 7, 2021, and therefore deny
3 same. All other allegations in Paragraph 34 are denied. All allegations not specifically
4 admitted are denied.

5 35. In response to Paragraph 35 of the Complaint, denied.

6 36. In response to Paragraph 36 of the Complaint, denied.

7 37. Defendants are without sufficient knowledge or information so as to form a
8 belief as to the truth of the allegations contained in Paragraph 37, and therefore deny same.

9 38. In response to Paragraph 38 of the Complaint, denied.

10 39. In response to Paragraph 39 of the Complaint, admit that on June 7, 2021,
11 Plaintiff asked Rucinski if he could talk to her about an incident in the factory. Denied in all
12 respects not specifically admitted.

13 40. In response to Paragraph 40 of the Complaint, admit that on June 8, 2021,
14 Plaintiff spoke to Rucinski and Pack in the wheelhouse and at that time claimed that Alfredo
15 Amezcua had called him “mayate.” Denied in all respects not specifically admitted.

16 41. In response to Paragraph 41 of the Complaint, admit that on June 8, 2021,
17 Plaintiff spoke to Rucinski and Pack in the wheelhouse. Denied in all respects not
18 specifically admitted.

19 42. In response to Paragraph 42 of the Complaint, admit that on June 8, 2021,
20 Plaintiff claimed that Alfredo Amezcua had called him “mayate” on a single occasion.
21 Denied in all respects not specifically admitted.

22 43. In response to Paragraph 43 of the Complaint, admit that Plaintiff
23 surreptitiously, improperly and without participant knowledge and/or consent took video

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1 and/or audio recordings while onboard the F/T CAPE HORN. Denied in all respects not
2 specifically admitted.

3 44. Paragraph 44 of the Complaint appears to contain an informal, uncertified,
4 incomplete, rendition of an unauthenticated and potentially unlawful recording, to which
5 Defendants lack the knowledge or information sufficient to form a belief regarding, and
6 therefore deny same.

7 45. In response to Paragraph 45 of the Complaint, denied.

8 46. In response to Paragraph 46 of the Complaint, denied.

9 47. In response to Paragraph 47 of the Complaint, denied.

10 48. In response to Paragraph 48 of the Complaint, admit based on information and
11 belief that the hours of second shift on the CAPE HORN were 4:00pm to 8:00am. Denied in
12 all respects not specifically admitted.

13 49. In response to Paragraph 49 of the Complaint, admit based on information and
14 belief that the hours of third shift on the CAPE HORN were 12:00am to 4:00pm. Denied in
15 all respects not specifically admitted

16 50. In response to Paragraph 50 of the Complaint, denied.

17 51. In response to Paragraph 51 of the Complaint, denied.

18 52. In response to Paragraph 52 of the Complaint, admit that Plaintiff's
19 performance and conduct on deck constituted a safety risk to himself and others. Denied in
20 all respects not specifically admitted.

21 53. In response to Paragraph 53 of the Complaint, admit that Plaintiff's
22 performance and conduct on deck constituted a safety risk to himself and others. Denied in
23 all respects not specifically admitted.

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1 54. In response to Paragraph 54 of the Complaint, denied.

2 55. In response to Paragraph 55 of the Complaint, admit that on or around June 8,

3 2021, Plaintiff placed a bin of fish in an improper location and that the bin of fish fell.

4 Denied in all respects not specifically admitted.

5 56. In response to Paragraph 56 of the Complaint, admit that Alfredo Amezcua

6 asked Plaintiff to pick up the spilled fish. Denied in all respects not specifically admitted.

7 57. In response to Paragraph 57 of the Complaint, admit that Plaintiff ignored Mr.

8 Amezcua's request. Admit that Plaintiff eventually picked up some of the fish. Denied in all

9 respects not specifically admitted.

10 58. In response to Paragraph 58 of the Complaint, admit on information and belief

11 that Plaintiff worked in the packing area on June 9, 2021.

12 59. In response to Paragraph 59 of the Complaint, denied.

13 60. In response to Paragraph 60 of the Complaint, denied.

14 61. In response to Paragraph 61 of the Complaint, denied.

15 62. In response to Paragraph 62, admit that Alfredo Amezcua did not throw fish at

16 any crewmembers on the F/T CAPE HORN. Denied in all respects not specifically admitted.

17 63. In response to Paragraph 63 of the Complaint, denied.

18 64. In response to Paragraph 64 of the Complaint, denied.

19 65. In response to Paragraph 65 of the Complaint, admit that Rucinski was

20 working at the QC station on June 9. Denied in all respects not specifically admitted.

21 66. In response to Paragraph 66 of the Complaint, admit that Plaintiff alleged that

22 Alfredo Amezcua was pushing fish into the packing bins too forcefully. Denied in all

23 respects not specifically admitted.

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1 67. In response to Paragraph 67 of the Complaint, admit that Rucinski
2 investigated Plaintiff's complaint and requested more information about the nature of the
3 alleged issue. Denied in all respects not specifically admitted.

4 68. In response to Paragraph 68 of the Complaint, admit that Plaintiff
5 demonstrated to Rucinski how water splashed up when fish were placed in the packing bins.
6 Denied in all respects not specifically admitted.

7 69. In response to Paragraph 69 of the Complaint, admit.

8 70. In response to Paragraph 70 of the Complaint, denied.

9 71. In response to Paragraph 71 of the Complaint, admit.

10 72. Defendants are without sufficient knowledge or information so as to form a
11 belief as to the truth of the allegations contained in Paragraph 72, and therefore deny same.

12 73. In response to Paragraph 73 of the Complaint, admit that Plaintiff completed a
13 written incident report on June 9, 2021. Denied in all respects not specifically admitted.

14 74. In response to Paragraph 74 of the Complaint, admit that Plaintiff completed a
15 written incident report on June 9, 2021. Denied in all respects not specifically admitted.

16 75. In response to Paragraph 75 of the Complaint, admit that Plaintiff completed a
17 written incident report on June 9, 2021. Denied in all respects not specifically admitted.

18 76. In response to Paragraph 76 of the Complaint, admit that reports of Plaintiff's
19 insubordination had been received and Plaintiff was advised of same. Denied in all respects
20 not specifically admitted.

21 77. In response to Paragraph 77 of the Complaint, admit that Plaintiff disputed the
22 reports of insubordination. Denied in all respects not specifically admitted.
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1 78. In response to Paragraph 78 of the Complaint, admit that Plaintiff
2 surreptitiously, improperly and without participant knowledge and/or consent took video
3 and/or audio recordings while onboard the F/T CAPE HORN. Denied in all respects not
4 specifically admitted.

5 79. In response to Paragraph 79 of the Complaint appears to contain an informal,
6 uncertified, incomplete, and rendition of an unauthenticated recording, to which Defendants
7 lack the knowledge or information sufficient to form a belief regarding, and therefore deny
8 same.

9 80. In response to Paragraph 80 of the Complaint, admit that Charles Whitaker is
10 a Level 2 processor. Denied in all respects not specifically admitted.

11 81. In response to Paragraph 81 of the Complaint, denied.

12 82. Defendants are without sufficient knowledge or information so as to form a
13 belief as to the truth of the allegations contained in Paragraph 82, and therefore deny same.

14 83. In response to Paragraph 83, admit that the Cook and Assistant Cook on the
15 CAPE HORN do the crew's laundry, and that the crewmembers do not do their own laundry.
16 Denied in all respects not specifically admitted.

17 84. Defendants are without sufficient knowledge or information so as to form a
18 belief as to the truth of the allegations contained in Paragraph 84 and therefore deny same.

19 85. Defendants are without sufficient knowledge or information so as to form a
20 belief as to the truth of the allegations contained in Paragraph 85, and therefore deny same.

21 86. In response to Paragraph 86 of the Complaint, admit that Plaintiff met with
22 Captain Doremus in the wheelhouse on or about June 10, 2021. Denied in all respects not
23 specifically admitted.

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1 87. In response to Paragraph 87 of the Complaint, admit that Plaintiff received a
2 disciplinary warning for ignoring Alfredo Amezcua's request that he pick up spilled fish.

3 Denied in all respects not specifically admitted.

4 88. In response to Paragraph 88 of the Complaint, admit that Plaintiff disputed the
5 disciplinary warning. Denied in all respects not specifically admitted.

6 89. In response to Paragraph 89 of the Complaint, admit that Plaintiff refused to
7 sign the disciplinary warning. Denied in all respects not specifically admitted.

8 90. In response to Paragraph 90 of the Complaint, admit that Plaintiff
9 surreptitiously, improperly and without participant knowledge and/or consent took video
10 and/or audio recordings while onboard the F/T CAPE HORN. Denied in all respects not
11 specifically admitted.

12 91. Defendants are without sufficient knowledge or information so as to form a
13 belief as to the truth of the allegations contained in Paragraph 91, and therefore deny same.

14 92. In response to Paragraph 92 of the Complaint, denied.

15 93. In response to Paragraph 93 of the Complaint, denied.

16 94. In response to Paragraph 94 of the Complaint, admit that Captain Doremus
17 provided paperwork to Plaintiff. Denied in all respects not specifically admitted.

18 95. In response to Paragraph 95 of the Complaint, admit that Plaintiff refused to
19 sign any paperwork. Denied in all respects not specifically admitted.

20 96. In response to Paragraph 96 of the Complaint, denied.

21 97. In response to Paragraph 97 of the Complaint, admit that Plaintiff was
22 provided meals onboard the vessel. Further admit that Plaintiff took his meals after the
23 working crewmembers had finished eating. Denied in all respects not specifically admitted.

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1 98. In response to Paragraph 98 of the Complaint, admit that Plaintiff disagreed
2 with the timing in which he was provided meals. Denied in all respects not specifically
3 admitted.

4 99. Defendants are without sufficient knowledge or information so as to form a
5 belief as to the truth of the allegations contained in Paragraph 99, and therefore deny same.

6 100. Defendants are without sufficient knowledge or information so as to form a
7 belief as to the truth of the allegations contained in Paragraph 100, and therefore deny same.

8 101. Defendants are without sufficient knowledge or information so as to form a
9 belief as to the truth of the allegations contained in Paragraph 101, and therefore deny same.

10 102. In response to Paragraph 102 of the Complaint, admit that F/T CAPE HORN
11 crewmembers, including Plaintiff, were not denied meals. Denied in all respects not
12 specifically admitted.

13 103. In response to Paragraph 103 of the Complaint, admit that Plaintiff
14 complained about the food and demanded to make phone calls. Denied in all respects not
15 specifically admitted.

16 104. In response to Paragraph 104 of the Complaint, admit that Plaintiff
17 surreptitiously, improperly and without participant knowledge and/or consent took video
18 and/or audio recordings while onboard the F/T CAPE HORN. Denied in all respects not
19 specifically admitted.

20 105. Paragraph 105 of the Complaint appears to contain an informal, uncertified,
21 incomplete, rendition of an unauthenticated recording, to which Defendants lack the
22 knowledge or information sufficient to form a belief regarding, and therefore deny same.

23 106. In response to Paragraph 106 of the Complaint, denied

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1 107. In response to Paragraph 107 of the Complaint, denied

2 108. In response to Paragraph 108 of the Complaint, admit that Plaintiff

3 surreptitiously, improperly and without participant knowledge and/or consent took video
4 and/or audio recordings while onboard the F/T CAPE HORN. Denied in all respects not
5 specifically admitted.

6 109. Paragraph 109 of the Complaint is stated to represent a stillframe from a
7 purported and unauthenticated video taken in violation of policy, to which Defendants lack
8 the knowledge or information sufficient to form a belief regarding, and therefore deny same.

9 110. Paragraph 110 of the Complaint appears to contain an informal, uncertified,
10 incomplete, rendition of an unauthenticated recording, to which Defendants lack the
11 knowledge or information sufficient to form a belief regarding, and therefore deny same.

12 111. In response to Paragraph 111 of the Complaint, denied

13 112. In response to Paragraph 112 of the Complaint, admit that Plaintiff sent Rosy
14 Barocio-Garibay an email on June 12, 2021 and that this email included various allegations.
15 Denied in all respects not specifically admitted.

16 113. In response to Paragraph 113 of the Complaint, admit that Plaintiff used the
17 words “immediate help” in the email of June 12, 2021. Denied in all respects not specifically
18 admitted.

19 114. In response to Paragraph 114 of the Complaint, admit that Rosy Barocio-
20 Garibay did not respond to the June 12, 2021. Further admit that vessel recruiter Amy
21 Hollingsworth did respond to the June 12, 2021 email.

22 115. In response to Paragraph 115 of the Complaint, denied

23 116. In response to Paragraph 116 of the Complaint, denied

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1 117. In response to Paragraph 117 of the Complaint, denied

2 118. In response to Paragraph 118 of the Complaint, admit a meeting was held on
3 June 12, 2021. Denied in all respects not specifically admitted.

4 119. In response to Paragraph 119 of the Complaint, admit that Plaintiff reiterated
5 the allegations in his June 12, 2021 email during the meeting on June 12, 2021. Denied in all
6 respects not specifically admitted.

7 120. In response to Paragraph 120 of the Complaint, admit that Plaintiff's claims
8 regarding the alleged use of "mayate" by Alfredo Amezcua had been investigated and that
9 the investigation did not corroborate the allegation. Denied in all respects not specifically
10 admitted. To the extent Paragraph 120 of the Complaint appears to contain an informal,
11 uncertified, incomplete, rendition of an unauthenticated recording, Defendants lack the
12 knowledge or information sufficient to form a belief regarding, and therefore deny same.

13 121. In response to Paragraph 121 of the Complaint, admit that Plaintiff quit, and
14 that Ms. Hollingsworth advised Plaintiff of this understanding. Denied in all respects not
15 specifically admitted.

16 122. In response to Paragraph 121 of the Complaint, admit that on June 12, 2021,
17 Plaintiff claimed he did not quit and had been instructed not to return to work. Denied in all
18 respects not specifically admitted.

19 123. In response to Paragraph 123 of the Complaint, admit that Ms. Hollingsworth
20 listened to Plaintiff and advised that she would review information regarding Plaintiff's
21 status. Denied in all respects not specifically admitted.

22 124. In response to Paragraph 124 of the Complaint, admit that Plaintiff
23 surreptitiously, improperly and without participant knowledge and/or consent took video

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1 and/or audio recordings while onboard the F/T CAPE HORN. Denied in all respects not
2 specifically admitted.

3 125. Paragraph 125 of the Complaint appears to contain an informal, uncertified,
4 incomplete, rendition of an unauthenticated recording, to which Defendants lack the
5 knowledge or information sufficient to form a belief regarding, and therefore deny same.

6 126. In response to Paragraph 126 of the Complaint, admit that Ms. Hollingsworth
7 referred Plaintiff to his 2021 Crew Member Agreement in regarding to questions regarding
8 transportation expenses. Denied in all respects not specifically admitted.

9 127. In response to Paragraph 127 of the Complaint, admit that Plaintiff requested
10 to use the vessel phone, and further that Plaintiff had access through vessel wifi services to
11 contact anyone he wished—including but not limited to an attorney and/or the EEOC.
12 Further admit that Plaintiff stated he was in communication with an attorney while he was on
13 the F/T CAPE HORN. Denied in all respects not specifically admitted.

14 128. In response to Paragraph 128, admit that Plaintiff was not allowed to use the
15 vessel phone. Further admit that Plaintiff at all times had access to vessel wifi services.
16 Denied in all respects not specifically admitted.

17 129. In response to Paragraph 129 of the Complaint, denied.

18 130. In response to Paragraph 130 of the Complaint, denied.

19 131. In response to Paragraph 131 of the Complaint, admit that Plaintiff
20 surreptitiously, improperly and without participant knowledge and/or consent took video
21 and/or audio recordings while onboard the F/T CAPE HORN. Paragraph 131 of the
22 Complaint is stated to represent a stillframe from a purported and unauthenticated video
23 taken in violation of policy, to which Defendants lack the knowledge or information

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1 sufficient to form a belief regarding, and therefore deny same. Defendants further deny that
2 the stillframe in Paragraph 131 represents “graffiti.”

3 132. In response to Paragraph 132 of the Complaint, admit that Plaintiff was
4 provided pre-plated food. Denied in all respects not specifically admitted.

5 133. In response to Paragraph 133 of the Complaint, admit that Plaintiff was
6 provided food and was not denied access to food. Denied in all respects not specifically
7 admitted.

8 134. In response to Paragraph 134 of the Complaint, denied.

9 135. In response to Paragraph 135 of the Complaint, denied.

10 136. In response to Paragraph 136 of the Complaint, denied.

11 137. In response to Paragraph 137 of the Complaint, denied.

12 138. In response to Paragraph 138 of the Complaint, admit that Plaintiff
13 surreptitiously, improperly and without participant knowledge and/or consent took video
14 and/or audio recordings while onboard the F/T CAPE HORN. Denied in all respects not
15 specifically admitted.

16 139. Paragraph 139 of the Complaint appears to contain an informal, uncertified,
17 incomplete, rendition of an unauthenticated recording, to which Defendants lack the
18 knowledge or information sufficient to form a belief regarding, and therefore deny same.

19 140. In response to Paragraph 140 of the Complaint admit that Plaintiff emailed
20 Ms. Hollingsworth on June 15, 2021, and that said email stated certain allegations. Denied in
21 all respects not specifically admitted.
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1 141. In response to Paragraph 141 of the Complaint, admit that in his June 15, 2021
2 email Plaintiff claimed to have video and audio recorded evidence supporting his allegations.
3 Denied in all respects not specifically admitted.

4 142. In response to Paragraph 142 of the Complaint, admit that any video or audio
5 recordings taken by Plaintiff onboard the F/T CAPE HORN were acquired in violation of
6 Company Policy, and that Ms. Hollingsworth advised him accordingly. Denied in all
7 respects not specifically admitted.

8 143. In response to Paragraph 143 of the Complaint, admit that on June 15, 2021,
9 Plaintiff claimed to be experiencing symptoms requiring medical attention. Denied in all
10 respects not specifically admitted.

11 144. In response to Paragraph 144 of the Complaint, admit that in response to
12 Plaintiff's reported medical symptoms, Plaintiff was provided access to a shoreside
13 telemedical provider through HealthForce. Denied in all respects not specifically admitted.

14 145. In response to Paragraph 145, admit that Captain Doremus and First Mate
15 Pack worked on the F/T CAPE HORN in June 2021. Denied in all respects not specifically
16 admitted.

17 146. In response to Paragraph 146 of the Complaint, admit that the F/T CAPE
18 HORN was operating in the Bering Sea and that therefore shoreside telemedical consultation
19 was provided to Plaintiff. Denied in all respects not specifically admitted.

20 147. In response to Paragraph 147 of the Complaint, denied.

21 148. In response to Paragraph 147 of the Complaint, denied.

22 149. In response to Paragraph 148 of the Complaint, denied.
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1 150. In response to Paragraph 149 of the Complaint, admit that the F/T CAPE
2 HORN's arrival times in port are subject to a number of factors including but not limited to
3 operations and weather conditions in the Bering Sea. Admit that projected arrival times are
4 subject to change. Denied in all respects not specifically admitted.

5 151. In response to Paragraph 151 of the Complaint, denied.

6 152. In response to Paragraph 152 of the Complaint, admit that deductions were
7 identified in Plaintiff's 2021 Crew Member Agreement. Denied in all respects not
8 specifically admitted.

9 153. In response to Paragraph 153 of the Complaint, admit that Plaintiff's 2021
10 Crew Member Agreement set forth the terms of his compensation and identified deductions.
11 Denied to the extent Paragraph 153 alleges Captain Doremus articulated compensation
12 inconsistently with the terms of the 2021 Crew Member Agreement. Denied in all respects
13 not specifically admitted.

14 154. In response to Paragraph 154 of the Complaint, denied.

15 155. In response to Paragraph 155 of the Complaint, denied.

16 156. In response to Paragraph 156 of the Complaint, denied.

17 157. In response to Paragraph 157 of the Complaint, denied.

18 158. In response to Paragraph 158 of the Complaint, admit that Plaintiff was
19 provided food and meals while he was onboard the vessel. Denied in all respects not
20 specifically admitted.

21 159. In response to Paragraph 159 of the Complaint, denied.

22 160. In response to Paragraph 160 of the Complaint, denied.

23 161. In response to Paragraph 161 of the Complaint, admit.

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1 162. In response to Paragraph 162 of the Complaint, denied.

2 163. In response to Paragraph 163 of the Complaint, admit that Plaintiff refused to
3 sign paperwork presented by Captain Doremus. Further admit that Captain Doremus advised
4 Plaintiff that it was Plaintiff's choice to sign or not to sign. Denied in all respects not
5 specifically admitted.

6 164. In response to Paragraph 164 of the Complaint, admit that Plaintiff
7 surreptitiously, improperly and without participant knowledge and/or consent took video
8 and/or audio recordings while onboard the F/T CAPE HORN. Denied in all respects not
9 specifically admitted.

10 165. Paragraph 165 of the Complaint appears to contain an informal, uncertified,
11 incomplete, rendition of an unauthenticated recording, to which Defendants lack the
12 knowledge or information sufficient to form a belief regarding, and therefore deny same.

13 166. In response to Paragraph 166 of the Complaint, admit.

14 167. In response to Paragraph 167 of the Complaint, admit that Vessel Recruiter
15 Hollingsworth provided an employment reference for Plaintiff in fall 2021. Denied in all
16 respects not specifically admitted.

17 168. In response to Paragraph 168 of the Complaint, denied.

18 169. Paragraph 169 appears to quote an identified document of unknown origin.
19 Defendants lack the knowledge or information sufficient to form a belief regarding the
20 allegations in Paragraph 169 and therefore deny same.

21 170. In response to Paragraph 170 of the Complaint, denied.

22 171. In response to Paragraph 171 of the Complaint, denied.

23 172. In response to Paragraph 172 of the Complaint, denied.

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173. In response to Paragraph 173 of the Complaint, denied.

174. In response to Paragraph 174 of the Complaint, denied.

175. In response to Paragraph 175 of the Complaint, denied.

176. In response to Paragraph 176 of the Complaint, denied.

177. In response to Paragraph 177 of the Complaint, denied.

CAUSE OF ACTION

COUNT 1 – 42 USC 1981 Retaliation

178. Defendants hereby incorporate their responses to each of the foregoing paragraphs as if fully set forth herein in response to Paragraph 178 of the Complaint.

179. In response to Paragraph 179 of the Complaint, denied.

180. In response to Paragraph 177 of the Complaint, denied.

181. In response to Paragraph 181 of the Complaint, denied.

182. In response to Paragraph 182 of the Complaint, denied.

183. In response to Paragraph 183 of the Complaint, denied.

184. In response to Paragraph 184 of the Complaint, , and subparts (a) through (m) thereto inclusive, denied.

185. In response to Paragraph 185 of the Complaint, denied

186. In response to Paragraph 186 of the Complaint, denied.

187. In response to Paragraph 187 of the Complaint, denied.

COUNT 2 – WLAD RCW 49.60 et seq. – Retaliation

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ANSWER TO COMPLAINT AND AFFIRMATIVE DEFENSES –
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1 188. Defendants hereby incorporate their responses to each of the foregoing
2 paragraphs as if fully set forth herein in response to Paragraph 188 of the Complaint.

3 189. In response to Paragraph 189 of the Complaint, denied.

4 190. In response to Paragraph 190 of the Complaint, denied.

5 191. In response to Paragraph 191 of the Complaint, denied.

6 192. In response to Paragraph 192 of the Complaint, denied.

7 193. In response to Paragraph 193 of the Complaint, denied.

8 194. In response to Paragraph 194 including subparts (a) through (m) thereto
9 inclusive, denied.

10 195. In response to Paragraph 195 of the Complaint, denied.

11 196. In response to Paragraph 196 of the Complaint, denied.

12 197. In response to Paragraph 197 of the Complaint, denied.

13
14
15 **COUNT 3 – WLAD RCW 49.60 et seq. – Hostile Work Environment**

16 **1.** In response to the second Paragraph 1 of the Complaint, Defendants hereby
17 incorporate their response to each of the foregoing paragraphs 1-197 as if fully set forth
18 herein in response to second Paragraph 1 of the Complaint.

19 **2.** Second paragraph 2 of the Complaint is denied.

20 **3.** Second paragraph 3 of the Complaint is denied.

21 **4.** Second paragraph 4 of the Complaint is denied.

22 **5.** Second paragraph 5 of the Complaint is denied.

23 **6.** Second paragraph 6 of the Complaint is denied.

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1 7. Second paragraph 7 of the Complaint is denied.

2 8. Second paragraph 8 of the Complaint is denied.

3 9. Second paragraph 9 of the Complaint is denied.

4 10. Second paragraph 10 of the Complaint is denied.

5 11. Second paragraph 11 of the Complaint is denied.

6
7 **JURY DEMAND**

8 12. Plaintiff's demand for a jury at second paragraph 12 of the Complaint appears to state
9 a right and/or issue of law for the Court's determination and to which no response is required
10 by answering Defendants.

11 **PRAYER**

12 13. Plaintiff's Prayer for Relief, found at the second paragraph numbered 13 of the
13 Complaint, and subparts (a) through (i) thereto, sets forth requests for relief that do not
14 require a response from Defendants. Defendants, however, deny that Plaintiff is entitled to
15 the relief requested in second paragraph 13, inclusive of all subparts (a) through (i) thereto,
16 of the Complaint or to any relief whatsoever.

17 **BY WAY OF FURTHER ANSWER AND FOR THEIR AFFIRMATIVE**
18 **DEFENSES,** Defendants reallege their responses to all of the preceding paragraphs and
19 state, but do not assume the burden of proof on any such defenses except as required by
20 applicable law with respect to the particular defense asserted:

21 1. Defendants deny all allegations contained in Plaintiff's Complaint which are
22 not specifically admitted herein.
23

{29792-00759915;1}

1 2. The Complaint and any or all counts therein fail to state a claim upon which
2 relief can be granted against some or all of the Defendants.

3 3. Plaintiff's claims fail, in whole or in part, to the extent they seek relief that is
4 not available under the statute pursuant to which he seeks relief and/or are not supported by
5 the relevant facts.

6 4. Plaintiff's claims re barred, in whole or in part, because all employment
7 decisions about which Plaintiff complaints were based on legitimate, nondiscriminatory and
8 non-retaliatory reasons.

9 5. Defendants did not willfully or otherwise violate any state or federal law.

10 6. Plaintiff's claims are barred, in whole or in part, because Defendants'
11 employment-related decisions regarding Plaintiff were based on a reasonable interpretation
12 of Defendants' policies and practices and were not arbitrary, capricious, unreasonable, or
13 made in bad faith, but rather were based on substantial evidence and/or honest belief.

14 7. Plaintiff's claims may be preempted or exclusively governed, at least in part,
15 by federal maritime law.

16 8. Plaintiff's claims may be barred in part to the extent he failed to satisfy
17 administrative prerequisites and/or exhaust his administrative remedies. In the alternative,
18 said claims are barred, in whole or in part, on the grounds that this Court lacks subject matter
19 jurisdiction over those claims for which Plaintiff failed to exhaust his administrative
20 remedies.

21 9. Plaintiff's claims are barred, in whole or in part, by the doctrines of waiver,
22 laches, estoppel, justification and/or release.
23

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1 10. Defendants at all times acted in good faith to comply with all applicable laws
2 and acted with reasonable grounds to believe their actions did not violate the statutes cited in
3 the Complaint or any other federal or state law. Defendants assert a lack of willfulness or
4 intent to violate such statutes.

5 11. If any employee of Defendants engaged in any wrongful acts toward Plaintiff
6 said acts were outside of the scope of employee's employment and/or Defendants' policies
7 and were independent, intervening, and unforeseeable acts that were not ratified, confirmed,
8 or approved by Defendants and therefore cannot be attributed or imputed to Defendants.

9 12. Plaintiff's claims are barred, in whole or in part, because Defendants
10 exercised reasonable care to prevent and correct promptly any alleged discriminatory,
11 harassing, or retaliatory behavior and/or Plaintiff unreasonably failed to take advantage of
12 Defendants preventative or protective opportunities or to otherwise avoid harm.

13 13. Plaintiff is not entitled to punitive or exemplary damages because Plaintiff has
14 failed to plead and cannot establish facts sufficient to support allegations of malice,
15 oppression, fraud and/or any other basis on which punitive damages might be awarded.

16 14. Defendants cannot be held liable for punitive damages stemming from the
17 alleged violations of its employees or managers to the extent those employees or managers
18 acted contrary to Defendants policies and procedures established to ensure compliance with
19 42 U.S.C. Section 1981, which Defendants do not admit that they did.

20 15. Plaintiff's claims are barred, in whole or in part, by the doctrine of unclean
21 hands.

22 16. Plaintiff's claims are barred, in whole or in part, by the acts and omissions of
23 Plaintiff.

{29792-00759915;1}

1. That Plaintiff's complaint be dismissed with prejudice and that Plaintiff take nothing thereby;
2. That Defendants' costs and fees be taxed against Plaintiff;
3. For such other relief as the Court may deem just and equitable.

DATED this 23rd day of November, 2021.

/s/ Carey M.E. Gephart

/s/ Nathan J. Beard

/s/ Peter J. Balzarini

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NATHAN J. BEARD, WSBA #45632

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CERTIFICATE OF SERVICE

I hereby certify that on November 23, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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- ☐ Via U.S. Mail
☐ Via Email Transmission
☒ Via CM/ECF Electronic Filing/E-Service
☐ Via Hand Delivery

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed at Seattle, Washington.

s/Ali McMahon
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